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EXAMINER	
LEWIS, DAVID LEE	

ART UNIT	PAPER NUMBER
2673	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/066,292	EBERL ET AL.	
	Examiner	Art Unit	
	David L. Lewis	2673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-9,11-13,15-19 and 21-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-9,11-13,15-19 and 21-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-4 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Fukushima et al. (6346929).

As in claim 1, Fukushima et al. teaches of an information system, comprising: an optical signal unit constructed and positioned to capture signals associated with an eye, **figure 2 item 10, column 3 lines 55-67**;

a wireless communication unit, **figure 3A item 115, column 2 lines 36-40, column 3 lines 46-49**;

and an output unit, interfaced with said wireless communication unit, **figure 12 item 130, column 1 lines 1-20**,

constructed and arranged to provide information using a correlation unit constructed to find suitable relationship between said captured signals and additional data, **column 5 lines 27-35, column 9 lines 55-67, column 13 lines 1-33,**

wherein said optical signal is configured and adapted to at least partially capture a corneal reflect of a naturally perceived field of view of said eye, and said captured signals comprise said at least partially captured corneal reflex, **column 11 lines 1-16**.

Wherein a light receiving lens 164 receives both infrared and real light from a naturally perceived field of view of said eye, to be focused on the image plane of the photoelectric device 165.

As in claim 2, Fukushima et al. teaches of comprising a camera constructed and arranged to capture optical signals from said naturally perceived field of view of said eye, column 11 lines 1-16, wherein said correlation unit is constructed and arranged to determine a correlation between said captured optical signals and said captured signals in said finding of said suitable relationship, column 11 lines 22-36.

As in claim 3, Fukushima et al. teaches of comprising an eye-tracking unit constructed and arranged to project light onto said eye, to capture a portion of said projected light that has been reflected from said eye and to determine, on the basis of said captured portion of light, an orientation of said eye, where said correlation unit is constructed and arranged to employ said determined orientation of said eye in finding said suitable relationship, column 11 lines 1-36

As in claim 4, Fukushima et al. teaches of comprising an eye-tracking unit constructed and arranged to project light onto said eye, to capture a portion of said projected light that has been reflected from said eye and to determine, on the basis of said captured portion of light, an orientation of said eye, where said correlation unit is constructed and arranged to employ said determined orientation of said eye in finding said suitable relationship, column 11 lines 1-36

As in claim 6, Fukushima et al. teaches of information system, comprising an optical signal unit constructed and positioned to capture signals reflected back from at least one eye comprising the retina, **figure 2 item 10, figure 12**;

a field-of-view capturing unit constructed and arranged to capture light from a field of view associated with said retina without capturing a retinal reflex image thereof, **figure 12 item 130, column 11 lines 1-20**;

an information unit, **column 8 lines 30-41**;

a wireless communication unit, **figure 3A item 115**;

and an output unit constructed to provide information, **figure 12 item 131**,

at least partially obtained via said communication unit, in cooperation with said information unit as a function of said captured light and in correlation with said captured signals, **column 10 lines 1-26, column 11 lines 1-20,**

wherein said optical signal unit is configured and adapted to at least partially capture a corneal reflex of a naturally perceived field of view of said eye, and said captured light comprises said at least partially captured corneal reflex, **column 11 lines 1-16**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 7-9, 11-13, 15-19 and 21-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima et al. (6346929) in view of Saitou et al. (5604818).

As in claim 7, Fukushima et al. teaches of an information system, comprising a optical signal unit constructed and positioned to capture signals reflected back from at least one eye comprising the retina, **figure 2 item 10, and figure 12**,

said optical signal unit comprising a scanning detection unit, **figure 12 item 165**;

an information unit, **column 8 lines 30-41**;

a wireless communication unit, **figure 3A item 115, column 4 lines 40-45**;

and an output unit constructed and arranged to provide information, **figure 2 item 3**,

at least partially obtained via said communication unit, in cooperation with said information unit as a function of said captured signals, said output unit being not capable of projecting information onto the retina, wherein said information system does not project electromagnetic radiation onto said retina in the course of said provision of information, **column 3 lines 55-67, column 4 lines 15-30**.

Wherein Fukushima does not project electromagnetic radiation onto said retina, instead said radiation is projected on to the cornea.

However Fukushima et al. fails to teach of said optical signal unit constructed to at least partially capture a **retinal reflex image** of said retina. Fukushima teaches of capturing a corneal reflex image, however using a retina reflex is a known alternative and/or addition to the visual axis detecting method of Fukushima as known in the art.

Saitou et al. teaches of a visual axis detecting method wherein said optical signal unit constructed to at least partially capture a retinal reflex image of said retina, column 3 lines 43-67 and column 5 lines 25-33. Saitou teaches said retinal reflex image relates to an apparatus for measuring a sighting direction of eyes, for example on a device as taught by Fukushima et al. As shown in figure 4 Saitou teaches of a separate sequence, 420-470 where specific electromagnetic radiation is not projected to the eye.

Therefore it would have been obvious to the skilled artisan at the time of the invention to combine the retinal reflex image of said retina as taught by Saito et al., within the eye tracking device of Fukushima because Saito et al. teaches said retinal reflex imaging is applicable to applications as taught by Fukushima, wherein eye tracking is obtained by detecting the visual axis, as found in claim 7.

As in claim 8, Fukushima et al. teaches of information system, comprising an optical signal unit constructed and positioned to capture signals reflected back from an one eye comprising a retina, **figure 2 item 10, figure 12**,

and carrying out a less comprehensive capture of said retinal reflex image during a later scanning operation, **column 11 lines 1-37**;

an information unit, **column 8 lines 30-41**;

a wireless communication unit, **figure 3A item 115, column 4 lines 40-45**;

and an output unit constructed and arranged to provide information, at least partially obtained via said communication unit, in cooperation with said information unit as a function of said captured signals, **figure 12 item 131**, **column 11 lines 1-20,**

However Fukushima et al. fails to teach of at least partially capture a retinal reflex image of said retina during a first scanning operation, **or of** said output unit comprising a scanning projection device constructed to project at least part of said information onto said retina. Fukushima teaches of capturing a corneal reflex image, however using a retina reflex is a known alternative and/or addition to the visual axis detecting method of Fukushima as known in the art.

Saitou et al. teaches of a visual axis detecting method wherein said optical signal unit constructed to at least partially capture a retinal reflex image of said retina, column 3 lines 43-67 and column 5 lines 25-33. Saitou teaches said retinal reflex image relates to an apparatus for measuring a sighting direction of eyes, for example on a device as taught by Fukushima et al. As shown in figure 4 Saitou teaches of a separate sequence, 420-470 where specific electromagnetic radiation is not projected to the eye.

Therefore it would have been obvious to the skilled artisan at the time of the invention to combine the retinal reflex image of said retina as taught by Saito et al., within the eye tracking device of Fukushima because Saito et al. teaches said retinal reflex imaging is applicable to applications as taught by Fukushima, wherein eye tracking is obtained by detecting the visual axis, as found in claim 8.

As in claim 9, Fukushima et al. teaches of information system, comprising an optical signal unit constructed and positioned to capture signals reflected back from at least one eye without reaching the retina, **figure 2 item 10, figure 12**;

an information unit, **column 8 lines 30-41**;

a wireless communication unit, **figure 3A item 115, column 4 lines 40-45**;

and an output unit constructed and arranged to provide information, at least partially obtained via said communication unit in cooperation with said information unit as a function of said captured signals, **figure 12 item 131, column 11 lines 1-20,**

However Fukushima et al. fails to teach said output unit comprising a scanning projection device constructed and arranged to project at least part of said information onto said retina, **figure 12 item 12**. Fukushima teaches of capturing a corneal reflex image, however using a retina reflex is a known alternative and/or addition to the visual axis detecting method of Fukushima as known in the art.

Saitou et al. teaches of a visual axis detecting method wherein said optical signal unit constructed to at least partially capture a retinal reflex image of said retina, column 3 lines 43-67 and column 5 lines 25-33. Saitou teaches said retinal reflex image relates to an apparatus for measuring a sighting direction of eyes, for example on a device as taught by Fukushima et al. As shown in figure 4 Saitou teaches of a separate sequence, 420-470 where specific electromagnetic radiation is not projected to the eye.

Therefore it would have been obvious to the skilled artisan at the time of the invention to combine the retinal reflex image of said retina as taught by Saito et al., within the eye tracking device of Fukushima because Saito et al. teaches said retinal reflex imaging is applicable to applications as taught by Fukushima, wherein eye tracking is obtained by detecting the visual axis, as found in claim 9.

As in claim 11, Fukushima et al. in view of Saito et al. teaches of comprising a field-of-view capturing unit constructed to capture visible light from a field of view associated with the retina without capturing a retinal reflex image thereof, figure 2 items 3l,3r, column 3 lines 59-61, column 11 lines 1-20; and said output unit being suitable for providing said information in correlation with said captured visible light, column 13 lines 1-15.

As in claim 12, Fukushima et al. in view of Saito et al. teaches of wherein said information system is constructed and adapted to capture optical signals from a naturally perceived field of view of said eye, column 13 lines 1-15; and said provision of information encompasses a pattern recognition based on said captured optical signals that yields at least one information key, column 13 lines 1-15, and said information keys serve for an information query based on said information apparatus, column 13 lines 1-15, figure 2 item 3, figure 12 item 130.

As in claim 13, Fukushima et al. teaches of information system applied above to claims 1-12, however Fukushima et al. fails to teach of a signal input unit constructed and positioned to capture at least two types of signals reflected back from at least one eye. Fukushima teaches of only a corneal reflection or signals being reflected back from said eye, column 11 lines 1-20. Fukushima teaches of capturing a corneal reflex image, however using a retina reflex is a known alternative and/or addition to the visual axis detecting method of Fukushima as known in the art.

Saitou et al. teaches of a visual axis detecting method wherein said optical signal unit constructed to at least partially capture a retinal reflex image of said retina, column 3

lines 43-67 and column 5 lines 25-33. Saitou teaches said retinal reflex image relates to an apparatus for measuring a sighting direction of eyes, for example on a device as taught by Fukushima et al. As shown in figure 4 Saitou teaches of a separate sequence, 420-470 where specific electromagnetic radiation is not projected to the eye.

Therefore it would have been obvious to the skilled artisan at the time of the invention to combine the retinal reflex image of said retina as taught by Saitou et al., within the eye tracking device of Fukushima because Saitou et al. teaches said retinal reflex imaging is applicable to applications as taught by Fukushima, wherein eye tracking is obtained by detecting the visual axis, as found in claim 13.

As in claim 15, Fukushima et al. teaches of wherein said signal input unit includes a field-of-view capturing unit constructed to capture visible light from a field of view associated with the retina without capturing a retinal reflex image thereof, figure 12 items 130; and said output unit being suitable for providing said information in correlation with said captured visible light, column 11 lines 1-20.

As in claim 16, Fukushima et al. teaches of wherein said information unit comprises an evaluation module constructed to obtain image information with regard to said field of view from said captured visible light**, figure 12 item 131; Fukushima in view of Saitou as applied above teaches of** and said projection device is constructed to project the image information onto the retina in correlation with said captured signals such that a naturally perceived field of view and projected image information are perceived as a unitary image by the retina**, Fukushima, column 12 lines 50-60, column 13 lines 1-15, Saitou et al.,** column 3 lines 43-67 and column 5 lines 25-33. **wherein the users gaze directs a cursor on the projected display.**

As in claim 17, Fukushima et al. teaches of wherein said function encompasses a temporal correlation between said provision of information and said captured light, column 13 lines 1-15.

As in claim 18, Fukushima et al. teaches of wherein said function encompasses a spatial correlation between said provision of information and said captured light, column 13 lines 1-15.

As in claim 19, Fukushima et al. teaches of wherein said function encompasses a pattern recognition that yields at least one information key, column 13 lines 1-15, and said information key serves for an information query based on said information apparatus, column 13 lines 1-15.

As in claim 21, Fukushima et al. teaches of wherein said information system does not project electromagnetic radiation onto said retina, column 11 lines 1-20, wherein the projection is to the cornea, not the retina.

As in claim 22, Saitou teaches of wherein said retinal reflex image is a reflex image of a natural scene ambient to said eye, column 3 lines 43-67, wherein the eye gaze directs a cursor scene on the screen by a viewer.

As in claim 23, Saitou teaches of wherein said is constructed and arranged to project light onto said retina and said retinal reflex image comprises a portion of said projected light that has been reflected from said retina, column 3 lines 43-67.

As in claims 24 and 28, Fukushima et al. teaches of an information system, comprising: an optical signal unit constructed and positioned to capture signals associated with an eye, **figures 2 and 12**;

a wireless communication unit **figure 3A item 115, column 4 lines 40-45**;

and an output unit, interfaced with said wireless communication unit, constructed and arranged to provide information using a correlation unit constructed to find suitable relationship between said captured signals and additional data, **figure 12 item 131**, **column 11 lines 1-20**

However Fukushima et al. fails to teach of wherein said optical signal unit is configured and adapted to at least partially capture a retinal reflex of a naturally perceived field of view of said eye, and said captured signals comprise said at least partially captured retinal reflex. Fukushima teaches of capturing a corneal reflex image, however using a retina reflex is a known alternative and/or addition to the visual axis detecting method of Fukushima as known in the art, figure 12 item 130.

Saitou et al. teaches of a visual axis detecting method wherein said optical signal unit constructed to at least partially capture a retinal reflex image of said retina, and said captured signals comprise said at least partially captured retinal reflex, column 3 lines

43-67 and column 5 lines 25-33. Saitou teaches said retinal reflex image relates to an apparatus for measuring a sighting direction of eyes, for example on a device as taught by Fukushima et al. As shown in figure 4 Saitou teaches of a separate sequence, 420-470 where specific electromagnetic radiation is not projected to the eye.

Therefore it would have been obvious to the skilled artisan at the time of the invention to combine the retinal reflex image of said retina as taught by Saito et al., within the eye tracking device of Fukushima because Saito et al. teaches said retinal reflex imaging is applicable to applications as taught by Fukushima, wherein eye tracking is obtained by detecting the visual axis, as found in claim 24 and 28.

As in claim 25, Fukushima et al. teaches of comprising a camera constructed and arranged to capture optical signals from said naturally perceived field of view of said eye, column 11 lines 1-16, wherein said correlation unit is constructed and arranged to determine a correlation between said captured optical signals and said captured signals in said finding of said suitable relationship, column 11 lines 22-36.

As in claim 26, Fukushima et al. teaches of comprising an eye-tracking unit constructed and arranged to project light onto said eye, to capture a portion of said projected light that has been reflected from said eye and to determine, on the basis of said captured portion of light, an orientation of said eye, where said correlation unit is constructed and arranged to employ said determined orientation of said eye in finding said suitable relationship, column 11 lines 1-36

As in claim 27, Fukushima et al. teaches of comprising an eye-tracking unit constructed and arranged to project light onto said eye, to capture a portion of said

projected light that has been reflected from said eye and to determine, on the basis of said captured portion of light, an orientation of said eye, where said correlation unit is constructed and arranged to employ said determined orientation of said eye in finding said suitable relationship, column 11 lines 1-36.

As in claims 29, Fukushima et al. teaches of said optical signal unit is constructed and arranged to capture, from said eye, an ocular reflex of said natural scene ambient to said eye, figure 12 item 130, column 11 lines 1-20, and said correlation unit is constructed and arranged to determine a correlation between said captured ocular reflex and said captured signals in said finding of said suitable relationship, column 10 lines 1-26, column 11 lines 1-20.

As in claims 30 and 31, an information system, comprising an optical signal unit constructed and positioned to capture signals reflected back from at least one eye comprising a retina, **figure 2 and 12**;

a field-of-view capturing unit constructed and arranged to capture light from a field of view associated with said retina without capturing a retinal reflex image thereof, **figure 12 item 130**,

an information unit, **column 8 lines 30-41**;

a wireless communication unit, **figure 3A item 115, column 2 lines 36-40, column 3 lines 46-49**;

and an output unit constructed to provide information, at least partially obtained via said communication unit, in cooperation with said information unit as a function of said captured light and in correlation with said captured signals, **figure 12 item 131, column 11 lines 1-20,**

and said captured light comprises said at least partially captured corneal reflex, **figure 12 item a, column 11 lines 1-20.**

and determines orientation of said eye**, column 10 lines 1-26, column 11 lines 1-20.**

However Fukushima fails to teach of wherein said optical signal unit is configured and adapted to at least partially capture a retinal reflex of a naturally perceived field of view of said eye. Fukushima teaches of capturing a corneal reflex image, however using a retina reflex is a known alternative and/or addition to the visual axis detecting method of Fukushima as known in the art, figure 12 item 130.

Saitou et al. teaches of a visual axis detecting method wherein said optical signal unit constructed to at least partially capture a retinal reflex image of said retina, and said captured signals comprise said at least partially captured retinal reflex, column 3 lines 43-67 and column 5 lines 25-33. Saitou teaches said retinal reflex image relates to an apparatus for measuring a sighting direction of eyes, for example on a device as taught by Fukushima et al. As shown in figure 4 Saitou teaches of a separate sequence, 420-470 where specific electromagnetic radiation is not projected to the eye.

Therefore it would have been obvious to the skilled artisan at the time of the invention to combine the retinal reflex image of said retina as well as the corneal reflex image taught by Saitou et al., within the eye tracking device of Fukushima because Saito et al. teaches said retinal reflex imaging and said corneal reflex imaging is applicable to applications as taught by Fukushima, wherein eye tracking is obtained by detecting the visual axis based on characteristics of the eye, as found in claim 30 and 31.

Response to Arguments

3. Applicant's arguments with respect to claims 1-4, 6-9, 11-13, 15-19, and 21-31 filed on 6/14/2005 have been considered, but not persuasive. See the new rejection based on Fukushima et al and Saitou et al in view of said amended claims. While Fukushima fails to teach of said retinal reflex images said features would have been obvious the skilled artisan in view of Saitou et al. Saitou teaches said retinal reflex image relates to an apparatus for measuring a sighting direction of eyes, for example on a device as taught by Fukushima et al. Therefore it would have been obvious to the skilled artisan at the time of the invention to combine the retinal reflex image of said retina as well as the corneal reflex image taught by Saitou et al., within the eye tracking device of Fukushima because Saito et al. teaches said retinal reflex imaging and said corneal reflex imaging is applicable to applications as taught by Fukushima, wherein eye tracking is obtained by detecting the visual axis based on characteristics of the eye.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Taniguchi et al. (6445365) and Eberi et al. (6523955).

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **David L. Lewis** whose telephone number is **(571) 272-7673**. The examiner can normally be reached on MT and THF from 8 to 5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala, can be reached on **(571) 272-7681**. Any inquiry of a general nature or

relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571)-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: David L. Lewis

November 27, 2005

BIPIN SHALWALA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 26